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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/061,475	02/01/2002	Thomas J. Krutsick	10	3695

7590 ,09/15/2003
Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560

EXAMINER

LOKE, STEVEN HO YIN

ART UNIT PAPER NUMBER

2811

DATE MAILED: 09/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/061,475

Applicant(s)

KRUTSICK, THOMAS J.

Examiner

Steven Loke

Art Unit

2811

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) 16 and 17 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 and 8 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6 and 9-13 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 07 July 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. Newly submitted claims 16 and 17 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

- I. Claims 16-17, drawn to a semiconductor device, classified in class 257, subclass 587.
- II. Claims 1-13, drawn to a method to make a semiconductor device, classified in class 438, subclass 322.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, unpatentability of the group I invention would not necessarily imply unpatentability of the group II invention, since the device of the group I invention could be made by processes materially different than those/that of the group II invention, for example, in claim 1, removing the residual oxide manually instead of using rapid thermal annealing.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 16 and 17 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because the abstract contains too many words (235 words). Correction is required. See MPEP § 608.01(b).

4. Claim 7 is objected to because of the following informalities: The last line of claim 7, the phrase "an upper surface of the semiconductor wafer" is unclear whether it is the same upper surface of the semiconductor wafer in line 5 of claim 7. Appropriate correction is required.

5. Claims 1-4, 6, 9, 10, 11, 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 21, the phrase "the first polysilicon layer" is unclear as to where is the first polysilicon layer in the complementary bipolar transistors; line 24, the phrase "the second polysilicon layer" is unclear as to where is the second polysilicon layer in the complementary bipolar transistors.

Claim 11 (lines 4-5) discloses the first and second electrodes being formed on an upper surface of the semiconductor wafer. Therefore, the top surface of the single-

crystal silicon substrate [100] (fig. 1) is considered as the upper surface of the semiconductor wafer. However, claim 11 (lines 18-19) also discloses the upper surface of the dielectric layer [1302] (amended fig. 13) as the upper surface of the semiconductor wafer. Therefore, it is unclear whether the top surface of the single-crystal substrate or the top surface of the dielectric layer is the upper surface of the semiconductor wafer in claim 11.

6. Claims 5 and 8 are allowed.

7. Claim 7 would be allowable if rewritten or amended to overcome the objection set forth in this Office action.

8. Claims 1 and 11 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Loke whose telephone number is (703) 308-4920. The examiner can normally be reached on 7:50 am to 5:20 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on (703) 308-2772. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

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September 11, 2003

Steven Loh
Steven Loh